

REMARKS

Claims 1 through 5 are pending in the Office Action. The Office Action also rejected claims 1-3 and 5 as being anticipated and claim 4 as being obvious over the prior art. Applicant has amended claim 1 to further clarify the invention as recited therein. Applicant respectfully submits that the amendments to claim 1 do not add new matter and requests entry thereof. Applicant respectfully requests reconsideration of claims 1 through 5 in view of the following remarks.

Please note that Applicant's remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicant requests that the Examiner carefully review each of the references discussed below to ensure that Applicant's understanding and discussion of the references is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed design. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed design and that reference.

A. Section 102 Rejection

Paragraphs 2 and 3 of the Office Action rejected claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,894,923 to Hamstra et al. (hereinafter *Hamstra*). *Hamstra* discloses a package or set of labels consisting of any desired number of panels of labels. Each panel consists of a label stock which may be configured into one or more labels which can be peeled away from the panel. Each panel also includes backing paper onto which is adhered the label stock. The backing paper has a plurality of folding means (e.g., perforations) to allow the label to be folded (e.g., accorded) in a compact package. The package includes

means for supporting the package from a support structure. For example, a hole may be formed in each panel which holes align when the package is compressed so that the package can be suspended from a prong on a peg board. The package also includes securement means (e.g., a staple) that holds the panels together as a group. After the panels are formed and folded along the folding means, the panel is stapled and packed in a shipping container. Upon reaching a retail outlet, the packages are threaded onto a prong or other supporting structure.

As such, the *Hamstra* reference is directed toward a "compact, structurally self-supporting structure." *Hamstra*, col. 4, ll. 24-26.

[The] label sheets being . . . securable to one another by any common securement means, such as a staple, said set not requiring any space beyond the dimensions of the set of label sheets. Further, no additional packaging components are required since the inherent rigidity of the set of label sheets provides all the structural integrity needed to handle, ship, assemble and display the set of label sheets as a package right up to the moment of purchase in a retail outlet.

Hamstra, col. 2, ll. 46-54 (emphasis added). The *Hamstra* reference thus teaches a packet of labels which is easily hung from a display and then easily removed therefrom.

The Office Action asserts that the package 10 is adapted to be connected to the device via holes 42-45 threaded onto prong 40. Applicant submits that prong 40 supports package 10 in this manner. However, independent claim 1 recites "A label for use with marketing a device comprising a first end; a second end; and an intermediate portion . . . wherein at least a portion of the label is adapted to be adhesively or (mechanically) connected to the device." Package 10 taught in *Hamstra* simply rests on prong 40. This must be so in order for purchasers to easily remove the package 10 from prong 40. Thus, the *Hamstra* reference does not teach that any part of the label is adapted to be adhesively or mechanically connected to a device, and, in fact, teach away from such limitations. Were the package 10 to be modified to be connected to prong 40 via adhesive or mechanical means, it would make it extremely difficult or impossible for

consumers to buy the package 10, thus destroying the intended function of package 10, which is to provide a "compact, structurally self-supporting structure," *Hamstra*, col. 4, ll. 24-26, wherein "no additional packaging components are required since the inherent rigidity of the set of label sheets provides all the structural integrity needed to handle, ship, assemble and display the set of label sheets as a package right up to the moment of purchase in a retail outlet." *Hamstra*, col. 2, ll. 46-54 (emphasis added). Therefore, Applicant respectfully requests that the anticipation rejection with respect to claim 1 be withdrawn.

Claims 2-3 and 5 depend from independent claim 1 and thus incorporate the limitations thereof. As such, Applicant respectfully requests that the anticipation rejection with respect to claims 2-3 and 5 be withdrawn.

B. Section 103 Rejection

Paragraphs 4 and 5 rejected claim 4 as obvious under 35 U.S.C. 103(a) in view of *Hamstra*. The Office Action asserted that an intermediate portion comprising an S-shaped portion would have been an obvious matter of design choice. However, Applicant respectfully asserts that even if the label package taught by *Hamstra* were modified to have an S-shaped intermediate portion, *Hamstra* still does not teach "A label for use with a device comprising a first end; a second end; and an intermediate portion . . . wherein at least a portion of the label is adapted to be adhesively or mechanically connected to the device." As such, Applicant respectfully requests that the obviousness rejection with respect to claim 4 be withdrawn.

C. Conclusion

In view of the foregoing, Applicant respectfully submits that claims 1-5 are in condition for allowance and favorable action is respectfully requested. In the event of any question, the Examiner is respectfully requested to initiate a telephone conversation with the undersigned.

Dated this ____ day of April 2005.

Respectfully submitted,

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